

HPEV, Inc., a Nevada corporation,
Plaintiff,
vs.
SPIRIT BEAR LIMITED, a Delaware corporation,
JAY PALMER, CARRIE ANN DWYER and
DONICA HOLT
Defendants.

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Case No. 2:13-cv-01548-GMN-GWF

ORDER

This matter comes before the Court on Maximiliano Couvillier, Esq., Ketan Bhirud, Esq., and Lionel Sawyer & Collins’ (“Counsel”) Motion to Withdraw as Counsel of Record for Defendant/Third-Party-Plaintiff Spirit Bear Limited (“Spirit Bear”) (#58), filed on January 22, 2014. This matter also comes before the Court on Spirit Bear’s Motion to Extend Time to Serve Derivative Counter and Third-Party-Claim (#60), filed on February 7, 2014.

Counsel seeks to withdraw because Spirit Bear has failed to fulfill its financial obligations. The Court finds that Counsel establishes good cause to withdraw. Furthermore, under Local Rule 7-2(d), the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion. The time to oppose the instant Motion has expired, and no opposition has been filed. Therefore, the Court will permit Counsel to withdraw.

Spirit Bear filed a Derivative Counter and Third-Party Claim (“Third Party Complaint”) (#38) on October 28, 2013. The Clerk of the Court entered a Notice of Intent to Dismiss (#59) as regards Plaintiff HPEV’s Amended Complaint (#29) on February 7 2014, which Counsel for Spirit Bear misread as an intent to dismiss its Third Party Complaint (#38). By the Court’s calculation, the deadline for Spirit Bear to serve its Third Party Complaint is February 26, 2014. Nevertheless,

1 because Spirit Bear will need to obtain new counsel in light of this Order, the Court will grant
2 Spirit Bear an additional 30 days to effectuate service of its Third Party Complaint (#38).
3 Accordingly,

4 **IT IS HEREBY ORDERED** that Maximiliano Couvillier, Esq. and Ketan Bhirud, Esq.'s
5 Motion to Withdraw as Counsel for Spirit Bear, Ltd. (#58) is **granted**.

6 **IT IS FURTHER ORDERED** that the Clerk of the Court shall add the last known address
7 of Spirit Bear to the civil docket in this case: Spirit Bear Limited, c/o Jay Palmer, 1470 First
8 Avenue No. 4A, New York, New York 10075.

9 **IT IS FURTHER ORDERED** that the Clerk of the Court shall serve a copy of this Order
10 on Spirit Bear at the above-listed address.

11 **IT IS FURTHER ORDERED** that Spirit Bear must retain new counsel if it intends to
12 continue to litigate this matter. A corporation or limited liability company may appear in federal
13 court only through licensed counsel. *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th
14 Cir. 1993). Spirit Bear shall have 14 days from the date of this Order to retain new counsel.

15 **IT IS FURTHER ORDERED** that Spirit Bear's Motion to Extend Time to Serve (#60) is
16 **granted** as followed:

17 (1) Spirit Bear shall have until **March 24, 2014** to serve its Third Party Complaint
18 (#29).

19 DATED this 10th day of February, 2014.

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22 GEORGE FOLEY, JR.
23 United States Magistrate Judge
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